

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Wolverine Proctor & Schwartz, Inc., and	:	
Great American Alliance Insurance Co., Inc.	:	
Plaintiffs,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	04-12189-RWZ
XYZ Tape Corp., formerly known as Patco Corp.,	:	
William B. Wilbur, and	:	
Travelers Property Casualty Company of America:	:	
Defendants.	:	

**Motion of Wolverine Proctor & Schwartz, Inc. And Great American Alliance Ins. for
Clarification And Extension of Time To Respond To XYZ Tape Corp. and William
Wilbur's Motion for Summary Judgment**

Plaintiffs Wolverine Proctor & Schwartz, Inc. and Great American Alliance Insurance Co., Inc. move pursuant to Federal Rule of Civil Procedure 6(b)(1) for a clarification of the Court's Scheduling Order and for an extension of the time to respond to Defendants, XYZ Tape Corp. and William B. Wilbur's Motion for Summary Judgment (Docket No. 21). In support of this motion, Plaintiffs state as follows:

1. In the Joint Statement By The Parties (Docket No. 18) filed pursuant to Local Rule 16.1(D) the parties proposed schedule for phased discovery and for motions. The parties' proposed motion schedule for summary judgment motions was as follows:

Filing of Plaintiffs' Summary Judgment Motion on Contract and Coverage Liability:	August 12, 2005
Filing of Defendants' Oppositions and Cross-Motions for Summary Judgment on Liability:	September 23, 2005
Filing of Plaintiffs' Reply and Opposition to Cross-Motions	October 26, 2005

2. The Clerk's docket notes regarding the action taken by the Court with respect to the parties' proposed plan at the January 25, 2005, Scheduling Conference indicate that the Court ordered: "Fact Discovery due by 8/12/2005. Motions due by 9/23/2005; reply/oppositions 10/26/05; motion hearing 11/3/05 at 2:00 p.m."

3. The Clerk's notes thus reflect that that the parties would be allowed 33 days to respond to summary judgment motions, although the parties had requested a longer period in part due to anticipated vacation schedules.

5. Defendants XYZ Tape Corp. and William Wilbur filed their motion for summary judgment on June 28, 2005, well in advance of the deadlines proposed in the Joint Statement or reflected in the Clerk's notes.

6. Plaintiffs request a clarification as to when their opposition is due under the Court's Scheduling Order and request an extension of time at least to August 9, 2005, or such other reasonable time as the Court deems just and proper, to submit their opposition to the Defendants' motion for summary judgment. Plaintiffs had presumed that the time period set forth in the Court's Scheduling Order would govern the time for filing its opposition, but the docket indicates that an opposition is due in accordance with the presumptive fourteen-day period of Local Rule 7.1(B)(2).

7. Additional time is required for the parties to resolve discovery dispute discussions begun under Local Rule 7.1(A)(2) and 37.1(B) regarding matters raised by Plaintiffs with respect to responses given to Plaintiffs' discovery requests and to properly prepare an opposition in light of the Plaintiffs' understanding of the response time allowed under the Court's Scheduling Order. An extension to August 9, 2005, also would allow counsel for the Plaintiffs to manage issues

raised by the press of business and would accommodate a pre-planned family vacation scheduled for the end of July.

8. This is the first extension of time sought by the Plaintiffs and is made before the expiration of the period required by the Local Rules for filing an opposition to Defendants' motion. The Plaintiffs believe no party would be prejudiced by the allowance of this motion.

Conclusion

WHEREFORE, for good cause shown and in the interests of justice, Plaintiffs Wolverine Proctor & Schwartz, Inc. and Great American Alliance Insurance Co., Inc. request a clarification of the Court's Scheduling Order and request an extension of time to August 9, 2005, or such other reasonable time as the Court deems just and proper, to submit their opposition to the Defendants' motion for summary judgment.

Local Rule 7.1 Certification

The undersigned certifies that he has conferred in good faith with counsel for the Defendants XYZ Tape Corp. and William Wilbur and Travelers Property Casualty Company of America with respect to the Plaintiffs' motion and represents that counsel for the Defendants could not reach a decision whether to oppose or not the motion prior to the time of its filing.

Respectfully submitted,
Wolverine Proctor & Schwartz, Inc.
Great American Alliance Insurance Co., Inc.
by its attorneys,

/s/ Matthew J. Walko

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